SCOTTISH STATUTORY INSTRUMENTS

2004 No. 507

REGISTERS AND RECORDS

The Fees in the Registers of Scotland Amendment Order 2004

Made - - - -	*25th November 2004*
Coming into force - -	*28th November 2004*

The Scottish Ministers in exercise of the powers conferred by section 25 of the Land Registers (Scotland) Act 1868(**a**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Fees in the Registers of Scotland Amendment Order 2004 and shall come into force on 28th November 2004.

Amendment of the Fees in the Registers of Scotland Order 1995

2. The Fees in the Registers of Scotland Order 1995(**b**) shall be amended as follows.

3. In article 2 (interpretation)–

(a) omit the words "the Schedule to" where they first occur;

(b) after paragraph (a) insert–

"(aa) "the 2003 Act" means the Title Conditions (Scotland) Act 2003(**c**);

(ab) "application for dual registration" means an application made for registration of–

(a) a constitutive deed under section 4(5) of the 2003 Act;

(b) a notice of preservation under section 50 of the 2003 Act;

(c) a deed creating a positive servitude under section 75(1) of the 2003 Act; or

(d) a notice of converted servitude under section 80 of the 2003 Act;

(ac) "application for variation of a title condition" means an application made for registration of–

(a) a deed of variation or discharge granted by virtue of section 33 or 35 of the 2003 Act;

(b) an order of the Lands Tribunal for Scotland under section 90(1)(c) or 91 or on the refusal of an application made under section 90(1)(c) of the 2003 Act; or

(c) a deed of discharge by virtue of section 15 of the 2003 Act;".

(**a**) 1868 c.64; section 25 was substituted by section 23 of the Land Registration (Scotland) Act 1979 (c.33) and amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), article 4 and Schedule 2, paragraph 3. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(**b**) S.I. 1995/1945, amended by S.I. 1999/1085 and S.S.I 2001/163.

(**c**) 2003 asp 9.

4. After article 2 (interpretation) insert–

"**2A.** For the purposes of the definition of "application for dual registration" and "application for variation of a title condition," "registration" in relation to a deed, notice or order means registering an interest in land or information relating to an interest in land (being an interest or information for which that deed, notice or order provides) in the Land Register of Scotland or, as the case may be, recording the deed or notice in the Register of Sasines.".

5. In Part I of the Schedule (Land Register of Scotland), under Head A (interests in land other than heritable securities) of section 1 (registration fees) in sub-paragraph (ff) for "uninfeft proprietor" substitute "unregistered holder".

6. In Part II of the Schedule (General Register of Sasines), under Head A (conveyances) of section 1 (recording fees)–

(a) for the words "feu right, lease, deed creating a ground annual or other yearly or periodical payment where there is a transfer of heritable subjects not in security" substitute "or lease";

(b) in sub-paragraph (iii) omit the words "feuing or".

7. In Part III of the Schedule (fees for registrations and recordings in both the Land and Sasine Registers), after Head B (heritable securities) insert–

"**C. Dual registration**

Where an application for registration in the Land Register or for recording a deed, notice or order in the Register of Sasines comprises an application for dual registration or an application for variation of a title condition and no fee is provided in respect of such application under Heads A and B of Parts I and II a fixed fee shall be charged in respect of that application.".

8. In paragraph 2 of section 2 (miscellaneous) of Part III of the Schedule (fees for registrations and recordings in both the Land and Sasine Registers) for "Heads A and B of Parts I and II" substitute "Heads A and B of Parts I and II or Head C of this Part".

9. In Part VIII of the Schedule (Register of the Great Seal), in paragraph 2 omit the words "charter of novodamus or other".

JOHANN M LAMONT
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
25th November 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Fees in the Registers of Scotland Order 1995 ("the 1995 Order"). The amendments provide for a fee of £22 in respect of the registration or recording of certain deeds. These deeds are deeds which require to be registered against both the burdened and benefited properties in accordance with the Title Conditions (Scotland) Act 2003 ("the 2003 Act"). The new fee of £22 will apply where the application for registration or recording is not already subject to a fee in accordance with Parts I and II of the Schedule to the 1995 Order. This will typically be the case in respect of applications made for registration against the benefited property.

The £22 fee also applies to applications for the registration of deeds under section 15 and Part 2 of the 2003 Act and Orders under Part 9 of the 2003 Act. These deeds or Orders vary or discharge real burdens.

This Order also amends the 1995 Order to remove terminology which will become obsolete on the abolition of feudal tenure.

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